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EXAMINER	
CARTER, AARON W	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/764,336	STEINBERG ET AL.	
	Examiner	Art Unit	
	AARON W. CARTER	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 November 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 January 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *9/04,9/04,7/07,11/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

> Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.
>
> When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare In re Lowry, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and Warmerdam, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).
>
> In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claims 1-43 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 1 and 27 define a "system". However, while the preamble defines a "system", which would typically be indicative of an "apparatus", the body of the claim lacks definite structure indicative of a physical apparatus. The claims as a whole

appears to be nothing more than a "system" of software elements, thus defining functional descriptive material per se.

Functional descriptive material may be statutory if it resides on a "computer-readable medium or computer-readable memory". The claim(s) indicated above lack structure, and do not define a computer readable medium and are thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). The scope of the presently claimed invention encompasses products that are not necessarily computer readable, and thus NOT able to impart any functionality of the recited program. The examiner suggests:

1. Amending the claim(s) to embody the program on "computer-readable medium" or equivalent; assuming the specification does NOT define the computer readable medium as a "signal", "carrier wave", or "transmission medium" which are deemed non-statutory; or

2. Adding structure to the body of the claim that would clearly define a statutory apparatus.

Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the new faceprint" in lines 14 and 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation "the new faceprint" in lines 10, 12 and 15. There is insufficient antecedent basis for this limitation in the claim.

Claim 27 recites the limitation " normalized face region" in line 12. There is insufficient antecedent basis for this limitation in the claim.

Claim 44 recites the limitation "the new faceprint" in lines 9, 11 and 14. There is insufficient antecedent basis for this limitation in the claim.

Claims 2-26, 28-43 and 45-59 are rejected by the virtue of their dependency upon independent claims 1, 27 and 44, but they also contain numerous instances of the limitation "the new faceprint", which all appear to lack antecedent basis.

Regarding claims 27 and 44, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 4 recites the limitation "the face candidate region" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-9, 12-16, 21-25, 27-33, 36-38, 44-49 and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0198368 to Kee in view of US 2002/0132663 to Cumbers.

As to claim 1, Kee discloses a processor-based system operating according to digitally-embedded programming instructions and communicating with one or more digital data storage media for classifying and archiving images including face regions that are acquired with an image acquisition device (*Fig. 3 and paragraphs 33 and 71*), the programming instructions comprising:

(1) a face detection module for identifying a group of pixels corresponding to a face region within digital image data acquired by the acquisition device (*Fig. 3, element 320 and paragraphs 33 and 37*);

(2) a normalization module for generating a normalized face region from said face region (*Fig. 3, element 340 and paragraphs 39 and 46*);

(3) a face recognition module for extracting a set of values of face classifier parameters from said normalized face region, said set of face classifier parameter values being collectively known as a faceprint associated with said normalized face region (*Fig. 3, element 350 and paragraph 47, wherein feature values corresponds to a faceprint*);

(4) a workflow module for comparing said extracted faceprint to a database of archived faceprints previously determined to correspond to one or more known identities, and for determining based on the comparing whether the new faceprint corresponds to any of the one or more known identities (*Fig. 3, element 370 and paragraphs 52 and 53*), and for associating the new faceprint and normalized face region from which said faceprint is derived with a new or known identity within a database comprising other data corresponding to the archived faceprints and associated parent images for performing further comparisons with further faceprints (*Fig. 3, elements 360 and 370 and paragraph 18, 49 and 58*); and

(5) a database module for archiving the data according to the associating by the workflow module within one or more digital data storage media (*Fig. 3, element 380 and paragraphs 49 and 58*).

Kee does not disclose expressly a set of user interface modules for obtaining user input in the classifying of faceprints and their associated normalized face regions and parent images.

However, Cumbers discloses a facial recognition system comprising a set of user interface modules for obtaining user input in the classifying of faceprints (*paragraph 47*).

Kee & Cumbers are combinable because they are from the same art of facial image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the system of acquiring user input, as taught by Cumbers, with the system disclosed by Kee.

The suggestion/motivation for doing so would have been to resolve conflict and errors encountered by the biometric system (*Cumbers, paragraph 7*).

Therefore, it would have been obvious to combine Kee with Cumbers to obtain the invention as specified in claim 1.

As to claim 2, the combination of Kee and Cumbers discloses the system of claim 1, wherein the archiving further for enabling further comparisons with further faceprints and for recalling the faceprints and their associated normalized face regions and parent images (*Kee, paragraph 58*).

As to claim 3, the combination of Kee and Cumbers discloses the system of claim 1, wherein the archiving further comprises grouping the new faceprint with a new or prior face

class defined by sets of face classifier parameter boundary values corresponding to the new or known identity (*Kee, Fig. 3, element 380 and paragraphs 49 and 58*).

As to claim 4, the combination of Kee and Cumbers discloses The system of claim 1, wherein the identifying by the face detection module further comprises presenting a thumbnail representation of the face candidate region, and receiving user input relevant to the identifying (*Cumbers, paragraph 47 and Fig. 1, elements 26 and 28a-28d*).

As to claim 5, the combination of Kee and Cumbers discloses the system of claim 1, wherein the comparing by the face recognition module further comprises presenting to the user one or more previously-archived faceprints, or thumbnails thereof, previously determined to correspond to one or more known identities, and receiving user input relevant to the comparison with the new faceprint (*Cumbers, paragraph 47 and Fig. 1, elements 26 and 28a-28d*).

As to claim 6, the combination of Kee and Cumbers discloses the system of claim 1, wherein the programming instructions further comprise providing interactive access to the user of data associated with the identities, faceprints, associated normalized face regions or parent images acquired with a digital camera, or combinations thereof (*Cumbers, paragraph 42 and47*).

As to claim 7, the combination of Kee and Cumbers discloses the system of claim 6, wherein the data comprises identity data, relationship data, personal data, group membership data, events and occasions data, location-based data, image category data or data stored within image metadata, or combinations thereof (*Cumbers, paragraph 42 and47*).

As to claim 8, the combination of Kee and Cumbers discloses the system of claim 6, wherein the data comprises image data, identity data or face recognition data, or combinations thereof (*Cumbers, paragraph 42 and47*).

As to claim 9, the combination of Kee and Cumbers discloses the system of claim 1, wherein the programming instructions comprise instructions for receiving data management editing from the user regarding image data, identity data or face recognition data, or combinations thereof (*Cumbers, paragraph 42 and47*).

As to claim 12, the combination of Kee and Cumbers discloses the system of claim 1, wherein the programming instructions comprise instructions for providing utilization access by the user of added value services tools (*Cumbers, paragraph 42 and47*).

As to claim 13, the combination of Kee and Cumbers discloses the system of claim 12, wherein the added value services tools comprise slideshow generation tools, print tools, web publisher tools, face detection tools, face recognition tools, or image enhancement tools based on the presence and location of faces in an image, or combinations thereof (*Cumbers, paragraph 42 and47*).

As to claim 14, the combination of Kee and Cumbers discloses the system of claim 1, wherein the comparing by the face recognition module further comprises receiving and processing user input regarding whether the faceprint and associated normalized face region corresponds to a known identity or matches a previously-archived faceprint, or both (*Cumbers, paragraph 42 and47*).

As to claim 15, the combination of Kee and Cumbers discloses the system of claim 1, wherein the database module further for associating the new faceprint image with a new or known identity by grouping the new face print image with a new or prior face class defined by range values of one or more face classifier parameters for performing further comparisons with further faceprints and for recalling the faceprints (*Kee, Fig. 3, elements 360 and 370 and paragraph 18, 49 and 58*).

As to claim 16, the combination of Kee and Cumbers discloses the system of claim 1, wherein the programming instructions are stored on or accessible by a stand alone processor-based device configured for receiving raw image data from a digital camera (*Kee, Fig. 3*), and the device being coupled with or including user interface hardware, and upon which the classifying is performed (*Cumbers, paragraph 47*).

As to claim 21, the combination of Kee and Cumbers discloses the system of claim 1, wherein the identifying by the face detection module or the comparing by the face recognition module, or both, comprises receiving and utilizing user input (*Cumbers, paragraph 47*).

As to claim 22, the combination of Kee and Cumbers discloses the system of claim 1, wherein the identifying by the face detection module or the comparing by the face recognition module, or both, are configured for auto-processing subject to selective disablement of the auto-processing by a user (*Cumbers, paragraph 47*).

As to claim 23, the combination of Kee and Cumbers discloses the system of claim 1, wherein the identifying by the face detection module applies automatic face region identification when a detection probability is calculated to be above a detection probability threshold (*Kee, Fig. 3, element 320 and paragraphs 33 and 37*) or the comparing by the face recognition module applies automatic identity recognition when a matching probability with a prior faceprint is

calculated to be above a matching probability threshold, or both (*Kee, Fig. 3, element 370 and paragraphs 52 and 53*).

As to claim 24, the combination of Kee and Cumbers discloses the system of claim 23, wherein the detection probability threshold or the matching probability threshold, or both, are adjustable *(Kee, paragraph 58)*.

As to claim 25, the combination of Kee and Cumbers discloses the system of claim 24, wherein the detection threshold or the matching threshold, or both, are adjustable by a user, a manufacturer, or an adaptive learning program of the system, or combinations thereof *(Kee, paragraph 58)*.

As to claims 27-29 please refer to the rejection of claims 1-3 above.

As to claims 30-33 please refer to the rejection of claims 6-9 above.

As to claim 36, please refer to the rejection of claim 12 above.

As to claim 37, please refer to the rejection of claim 13 above.

As to claim 38, please refer to the rejection of claim 16 above.

As to claim 44, please refer to the rejection of claim 1 above.

As to claim 45, please refer to the rejection of claim 1 above.

As to claim 46, please refer to the rejection of claim 2 above.

As to claim 47, please refer to the rejection of claim 3 above.

As to claim 48, please refer to the rejection of claim 6 above.

As to claim 49, please refer to the rejection of claim 9 above.

As to claim 52, please refer to the rejection of claim 12 above.

As to claim 53, the combination of Kee and Cumbers discloses the method of claim 44, wherein the extracting is performed automatically (*Kee, Fig. 3, element 350 and paragraph 47*).

As to claim 54, the combination of Kee and Cumbers discloses the method of claim 44, wherein the comparing is performed automatically (*Kee, (Fig. 3, element 370 and paragraphs 52 and 53)*).

As to claim 55, the combination of Kee and Cumbers discloses the method of claim 54, wherein extracting is performed automatically (*Kee, Fig. 3, element 350 and paragraph 47*).

As to claim 56, please refer to the rejection of claim 2 above.

4. Claims 10, 11, 34, 35, 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kee (already of record) and Cumbers (already of record) in view of US 2005/0063569 to Colbert et al. ("Colbert").

As to claim 10, the combination of Kee and Cumbers discloses the system of claim 1.

The combination of Kee and Cumbers does not disclose expressly wherein the programming instructions comprise instructions for receiving data management editing from the user regarding statistical thresholds utilized in the comparing by the face recognition module.

However, Colbert discloses a system for facial recognition comprising receiving data management editing from the user regarding statistical thresholds utilized in the comparing by the face recognition (*paragraph 40*).

Kee, Cumbers & Colbert are combinable because they are from the same art of image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the process of receiving data management editing from the user regarding statistical thresholds utilized in the comparing by the face recognition, as taught by Colbert, with the system disclosed by the combination of Kee and Cumbers.

The suggestion/motivation for doing so would have been to provide a system that can quickly verify a person's identity and with a high degree of certitude (*Colbert, paragraph 8*).

Therefore, it would have been obvious to combine Kee and Cumbers with Colbert to obtain the invention as specified in claim 10.

As to claim 11, the combination of Kee, Cumbers and Colbert discloses the system of claim 10, wherein the programming instructions further comprise instructions for receiving data management editing from the user regarding automated learning or adaptive recognition enhancement processes, or both (*Colbert, paragraph 8*).

As to claims 34 and 35, please refer to the rejection of claims 10 and 11 above.

As to claims 50 and 51, please refer to the rejection of claims 10 and 11 above.

5. Claims 17-20, 26 and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kee (already of record) and Cumbers (already of record) in view of US 2002/0141586 to Margalit et al. ("Margalit").

As to claim 17, the combination of Kee and Cumbers discloses system of claim 1.

The combination of Kee and Cumbers does not disclose expressly wherein the programming instructions are stored at least in part on an embedded appliance for performing some image classifying-related processing prior to outputting processed image data to a further processor-based device upon with classifying is further performed.

Margalit discloses a facial recognition system comprising programming instructions are stored at least in part on an embedded appliance for performing some image classifying-related

processing prior to outputting processed image data to a further processor-based device upon which classifying is further performed (*Figs. 10C and 13C and paragraphs 53, 59 and 157*).

Kee, Cumbers & Margalit are combinable because they are from the same art of image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine an embedded appliance for performing some image classifying-related processing to output processed image data to a further processor-based device upon which classifying is further performed, as taught by Margalit, with the system disclosed by Kee and Cumbers.

The suggestion/motivation for doing so would have been to provide a portable device capable of communicating with an authenticator for authentication of identity (*Margalit, Abstract and paragraph 16*).

Therefore, it would have been obvious to combine Kee and Cumbers with Margalit to obtain the invention as specified in claim 17.

As to claim 18, the combination of Kee, Cumbers and Margalit discloses the system of claim 17, wherein the embedded appliance comprises a digital camera (*Margalit, Figs. 10C and 13C and paragraphs 53, 59 and 157*).

As to claim 19, the combination of Kee, Cumbers and Margalit discloses the system of claim 18, wherein the digital camera comprises a dedicated digital camera or a camera-capable

handheld pda or phone, or a combination thereof (*Margalit, Figs. 10C and 13C and paragraphs 53, 59 and 157*).

As to claim 20, the combination of Kee, Cumbers and Margalit discloses the system of claim 1, wherein the programming instructions are stored at least in part on a processor-based device connected to a network for performing some image classifying-related processing on the device prior to outputting processed data to a back-end server upon which the classifying is further performed (*Margalit, Figs. 10C and 13C and paragraphs 53, 59 and 157*).

As to claim 26, the combination of Kee, Cumbers and Margalit discloses the system of claim 1, wherein the programming instructions are stored on or accessible by processor-based components within a digital camera upon which the classifying is performed (*Margalit, Figs. 10C and 13C and paragraphs 53, 59 and 157*).

As to claims 39-42, please refer to the rejection of claims 17-20 above.

As to claim 43, please refer to the rejection of claim 26 above.

6. Claims 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kee (already of record) and Cumbers (already of record) in view of the article "3D Pose Estimation and Normalization for Face Recognition by Jebara (already of record).

As to claim 57, the combination of Kee and Cumbers discloses the system of claim 44.

The combination of Kee and Cumbers does not disclose expressly further comprising determining that the face region has a particular pose aspect.

However, Jebara discloses a system for face region normalization comprising determining that the face region has a particular pose aspect (*page 61, lines 14-23*).

Kee, Cumbers & Jebara are combinable because they are from the same art of facial image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the process of determining a particular pose aspect of a face region, as taught by Jebara, with the system disclosed by Kee and Cumbers.

The suggestion/motivation for doing so would have been to provide a vision system which would permit automatic machine-based face detection and recognition in uncontrolled environments (*Jebara, page 1, lines 11-12*).

Therefore, it would have been obvious to combine Kee with Jebara to obtain the invention as specified in claim 57.

As to claim 58, please refer to the rejection of claim 57 above.

As to claim 59, please refer to the rejection of claim 57 above.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/763,801 in view of US 2002/0132663 to Cumbers.

Claim 1 of application 10/763,801 discloses all the limitations of claim 1 in the present application except for "a set of user interface modules for obtaining user input in the classifying of faceprints and their associated normalized face regions and parent images".

Cumbers discloses a facial recognition system comprising a set of user interface modules for obtaining user input in the classifying of faceprints (*paragraph 47*).

Application 10/763,801 & Cumbers are combinable because they are from the same art of facial image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the system of acquiring user input, as taught by Cumbers, with the system disclosed by application 10/763,801.

The suggestion/motivation for doing so would have been to resolve conflict and errors encountered by the biometric system (*Cumbers, paragraph 7*).

Therefore, it would have been obvious to combine application 10/763,801 with Cumbers to obtain the invention as specified in claim 1.

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/764,274 in view of US 2002/0132663 to Cumbers.

Claim 1 of application 10/764,274 discloses all the limitations of claim 1 in the present application except for "a set of user interface modules for obtaining user input in the classifying of faceprints and their associated normalized face regions and parent images".

Cumbers discloses a facial recognition system comprising a set of user interface modules for obtaining user input in the classifying of faceprints (*paragraph 47*).

Application 10/764,274 & Cumbers are combinable because they are from the same art of facial image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the system of acquiring user input, as taught by Cumbers, with the system disclosed by application 10/764,274.

The suggestion/motivation for doing so would have been to resolve conflict and errors encountered by the biometric system (*Cumbers, paragraph 7*).

Therefore, it would have been obvious to combine application 10/764,274 with Cumbers to obtain the invention as specified in claim 1.

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/764,339 in view of US 2002/0132663 to Cumbers.

Claim 1 of application 10/764,339 discloses all the limitations of claim 1 in the present application except for "a set of user interface modules for obtaining user input in the classifying of faceprints and their associated normalized face regions and parent images".

Cumbers discloses a facial recognition system comprising a set of user interface modules for obtaining user input in the classifying of faceprints (*paragraph 47*).

Application 10/764,339 & Cumbers are combinable because they are from the same art of facial image processing.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the system of acquiring user input, as taught by Cumbers, with the system disclosed by application 10/764,339.

The suggestion/motivation for doing so would have been to resolve conflict and errors encountered by the biometric system (*Cumbers, paragraph 7*).

Therefore, it would have been obvious to combine application 10/764,339 with Cumbers to obtain the invention as specified in claim 1.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 2001/0031129 to Tajima discloses a system for face detection.

US 2004/0136574 to Kozakaya et al. discloses a system for face detection.

US 2008/0137919 to Kozakaya et al. discloses a system for face detection.

USPN 6,142,876 to Cumbers discloses a system for face detection.

USPN 6,234,900 to Cumbers discloses a system for face detection.

USPN 6,554,705 to Cumbers discloses a system for face detection.

USPN 6,783,459 to Cumbers discloses a system for face detection.

USPN 6,928,231 to Tajima discloses a system for face detection.

USPN 7,175,528 to Cumbers discloses a system for face detection.

USPN 7,187,786 to Kee discloses a system for face detection.

USPN 7,324,670 to Kozakaya et al. discloses a system for face detection.

USPN 7,357,717 to Cumbers discloses a system for face detection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON W. CARTER whose telephone number is (571)272-7445. The examiner can normally be reached on 8am - 4:30 am (Mon. - Fri.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Werner can be reached on (571) 272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Aaron W Carter/
Primary Examiner, Art Unit 2624